

# COHEN & GREEN

August 20, 2024

Hon. Orelia E. Merchant, U.S.D.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, 6C South  
Brooklyn, New York 11201

By Electronic Filing.

**Re: York v. City of New York, 22-cv-06432**

Dear Judge Merchant:

I am co-counsel for Plaintiff in the case above.

As noted in the letter at ECF 47, Defendants served a Rule 68 Offer of Judgment which Plaintiff accepted. Plaintiff respectfully requests that the Court endorse the attached proposed judgment attached.

As ever, I thank the Court for its time and consideration.

Respectfully submitted,

/s/

\_\_\_\_\_  
J. Remy Green

*Honorific/Pronouns: Mx., they/their/them*

**COHEN&GREEN P.L.L.C.**

*Attorneys for Plaintiff*

1639 Centre St., Suite 216

Ridgewood, New York 11385

cc:

All relevant parties by ECF.

# COHEN & GREEN

August 8, 2024

Jessica M. Ochoa  
Assistant Corporation Counsel  
Special Federal Litigation Division  
New York City Law Department  
100 Church Street, Room 3-218  
New York, New York 10007

By Electronic Mail (per agreement).

**Re: York v. City of New York, 22-cv-06432**

Dear Jessica:

I write to inform you that Plaintiff in the above-captioned matter hereby accepts Defendants' Rule 68 Offer of Judgment dated November 9, 2022, a copy of which is attached.

I will contact you separately regarding the outstanding claims for attorney's fees and costs to see if we can reach a stipulation that would avoid the need for a formal application to the Court. We will also reach out regarding stipulating to the time necessary for a such discussions, after we enter judgment against the City.

Hope all is well, and I am pleased we are able to move this case closer to a close.

Yours, &c.,

/s/

J. Remy Green

*Honorific/ Pronouns: Mx., they/ their/ them*

**COHEN & GREEN P.L.L.C.**

*Attorneys for Plaintiff*

1639 Centre St., Suite 216

Ridgewood, New York 11385

cc:

ServiceECF@law.nyc.gov

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- x  
LUCY YORK,

Plaintiff,

-against-

**RULE 68  
OFFER OF JUDGMENT**

THE CITY OF NEW YORK, NYPD OFFICER JORGE  
GARCIA, NYPD OFFICER LEONEL O. GIRON, NYPD  
OFFICER JUSTIN M. SCHIVEK, NYPD SERGEANT  
THOMAS W. QUEVEDO, NYPD ASSISTANT CHIEF  
JOSEPH GULOTTA, AND NYPD MEMBER JOHN DOE  
1B  
,

22-CV-06432 (OEM) (VMS)

Defendants.  
----- x

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendants, and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow plaintiff Lucy York to take a judgment against the City of New York in this action for the total sum of Fifteen Thousand and One (\$15,001.00) Dollars, plus reasonable attorneys' fees, expenses, and costs to the date of this offer for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted by written notice within 14 days after being served.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff Lucy York agrees that payment of Fifteen Thousand and One (\$15,001.00) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If plaintiff Lucy York is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to counsel for defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff Lucy York agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Lucy York further agrees to hold harmless defendants and all past and present officials, employees, representatives and

agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York  
July 25, 2024

MURIEL GOODE-TRUFANT  
Acting Corporation Counsel of the  
City of New York  
*Attorney for Defendants City and Garcia*  
100 Church Street, Room 3-193  
New York, New York 10007  
(212) 356-3540

By: /s/ Elissa B. Jacobs  
Elissa B. Jacobs  
*Senior Corporation Counsel*

To: VIA HAND DELIVERY AND EMAIL  
Remy Green, Esq.  
Cohen Green, PLLC  
1639 Centre Street, Ste. 216  
Ridgewood, NY 11385

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
LUCY YORK,

Plaintiff,

-against-

**[PROPOSED]  
JUDGMENT**

**22-cv-6432 (OEM)(VMS)**

THE CITY OF NEW YORK, NYPD OFFICER JORGE  
GARCIA, NYPD OFFICER LEONEL O. GIRON, NYPD  
OFFICER JUSTIN M. SCHIVEK, NYPD SERGEANT  
THOMAS W. QUEVEDO, NYPD ASSISTANT CHIEF  
GULOTTA, AND NYPD MEMBER JOHN DOE 1B,

Defendants.  
-----X

**WHEREAS**, Plaintiff commenced this action by filing a complaint on October 24, 2022 alleging that Defendants violated Plaintiff's rights under the federal constitution and state law; and

**WHEREAS**, on July 25, 2024, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants offered to allow Plaintiff to take judgment against the City of New York for Plaintiff's federal claims; and

**WHEREAS**, on August 8, 2024, Plaintiff accepted Defendants' Rule 68 Offer of Judgment;

**NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff receives a judgment of liability against defendant City of New York in this action for the total sum of Fifteen Thousand and One (\$15,001.00) Dollars to Lucy York, plus reasonable attorneys' fees, expenses, and costs to the date of the offer for Plaintiff Lucy York's federal claims.

2. This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff may have to damages, or any other form of relief, arising out of the alleged

acts or omissions of Defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

3. This Judgement is pursuant to an offer made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof nor is it an admission that Plaintiff has suffered any damages.

4. In accepting the Defendants' offer of judgment, Plaintiff Lucy York releases and discharges Defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff Lucy York arising out of the facts and circumstances that are the subject of this action.

5. By accepting the offer of judgment, Plaintiff waives her right to any claim for interest on the amount of the judgment.

6. By accepting the offer of judgment, Plaintiff Kedwin Payamps agrees that the aforesaid payment of Fifteen Thousand and One (\$15,001) to Kedwin Payamps within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff Lucy York received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If Plaintiff Lucy York is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date the Plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

7. By acceptance of this Rule 68 Offer of Judgment, Plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff further agrees to hold harmless defendants and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

Dated: Brooklyn, New York  
August 20, 2024

HON. \_\_\_\_\_, U.S. \_\_\_\_J.



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

LUCY YORK,

*Plaintiffs,*

v.

THE CITY OF NEW YORK, NYPD OFFICER  
JORGE GARCIA, NYPD OFFICER LEONEL  
O. GIRON, NYPD OFFICER JUSTIN M.  
SCHIVEK, NYPD SERGEANT THOMAS W.  
QUEVEDO, NYPD ASSISTANT CHIEF  
GULOTTA, AND NYPD MEMBER JOHN  
DOE 1B,

*Defendants.*

Case No. 22-cv-6432

**DECLARATION OF  
SERVICE OF  
ACCEPTANCE OF RULE  
68 OFFER**

Remy Green, an attorney duly admitted to practice before this court, declares the following is true and correct:

1. I am counsel for Plaintiff in this case.
2. On August 8, 2024, on behalf of Plaintiff, I accepted Defendants' Rule 68 offer by providing written notice as specified in the Offer of Judgment, via email, to Jessica Ochoa, Special Federal Litigation Division, New York City Law Department, at her Law Department e-mail address.

As permitted in 28 U.S.C. § 1746, I, Remy Green, declare under penalty of perjury that the foregoing is true and correct.

Executed On: August 20, 2024

/s/

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J. Remy Green